

March 8, 2004

RAYMOND MARTIN  
PO BOX 452  
EDMONDS WA 98020

Subject: Complaint Filed Against David Orvis, PDC Case No. 04-270

Dear Mr. Martin:

The Public Disclosure Commission staff has completed its investigation of your complaint received September 29, 2003 alleging that David Orvis, a candidate for Edmonds City Council, sponsored political advertising in which he made false statements about a candidate.

The PDC staff reviewed your allegations in light of the following statute:

**RCW 42.17.530** prohibits a person from sponsoring with actual malice political advertising that contains a false statement of material fact about a candidate for public office. "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity. Any violation must be proven by clear and convincing evidence.

You alleged that David Orvis, a candidate for Edmonds City Council in 2003, sponsored political advertising that attempted to mislead Edmonds voters into believing that if Mr. Orvis' opponent, Rich Demeroutis, was elected, the Edmonds Dog and Cat Ordinance would be rescinded. You also alleged that Mr. Orvis' advertising falsely stated that Mr. Demeroutis was backed by people opposed to the city's spay and neuter policy.

We found that:

- David Orvis was a candidate for the position of Edmonds City Council in 2003.
- David Orvis sponsored a political advertisement mailed to voters that stated, "*Last year, Edmonds citizens gathered over five thousand signatures on an initiative petition requiring the city animal shelter to spay and neuter pets eligible for adoption. After a very heated debate, the council passed a mandatory spay and neuter policy for our city animal shelter. Unfortunately, it passed by only one vote. This year's elections could shift the balance of the council on the mandatory spay and neuter policy.*" (Emphasis

added) Mr. Orvis also stated in his mailer that his opponent, Richard Demeroutis, was backed by people opposed to the mandatory spay and neuter policy.

- The first alleged false statement is not a false statement about a candidate. It is a statement about what happened in the City of Edmonds regarding the city's mandatory spay and neuter policy. It is also a statement of Mr. Orvis' opinion that the 2003 elections could shift the balance of the council on the mandatory spay and neuter policy. It is not a statement about Mr. Demeroutis or any other candidate. Because RCW 42.17.530 applies to false statements about a candidate for public office, Mr. Orvis' statements regarding the spay and neuter policy are not a violation of RCW 42.17.530.
- Mr. Orvis' opponent, Richard Demeroutis, received contributions from two individuals who publicly stated their opposition to the mandatory spay and neuter policy at Edmonds City Council meetings. Therefore, Mr. Orvis did not make a false statement when he said that Mr. Demeroutis was backed by people opposed to the city's spay and neuter policy.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation and, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against David Orvis.

If you have questions, please contact Phil Stutzman, Director of Compliance, at (360) 664-8853 or toll-free at 1-877-601-2828.

Sincerely,

Vicki Rippie  
Executive Director

c: David Orvis